

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION**

FRANCISCAN ALLIANCE, INC., *et al.*,

*Plaintiffs,*

v.

THOMAS E. PRICE, M.D., Secretary  
of Health and Human Services, *et al.*,

*Defendants.*

No. 7:16-cv-00108

**STATUS REPORT**

In response to this Court's July 10, 2017 Order, ECF No. 105, Defendants hereby provide the following update on any "rulemaking proceedings initiated with respect to the challenged Rule." *Id.* at 10; *see* 45 C.F.R. § 92 (the "Rule"). As stated at the June 26 hearing, Defendants are reevaluating the reasonableness, necessity, and efficacy of the Rule that is challenged in this case and, as part of that process, assessing the issues identified by the Court in granting Plaintiffs a preliminary injunction.

A draft of a proposed rule is going through the clearance process within the Executive Branch. Specifically, Defendants have provided the Department of Justice ("DOJ") with a draft proposed rule. DOJ is reviewing the proposed rule pursuant to Executive Order 12,250 ("Leadership and Coordination of Nondiscrimination Laws") and DOJ's implementing procedures. Once DOJ completes its review, the proposed rule must go through inter-agency clearance managed by the Office of Management and Budget ("OMB").

Defendants anticipate that after the clearance process is complete, the future rulemaking proceedings will involve notice and comment. The time required to complete both the clearance

process and notice and comment rulemaking proceedings will depend largely on inter-agency coordination and on the public comments on the proposed rule.

Defendants request an opportunity to continue reconsidering the Rule and do not request that the Court close this case. Meanwhile, Defendants will continue to abide by this Court's preliminary injunction and will therefore not enforce the Rule's prohibition against discrimination on the basis of gender identity or termination of pregnancy.

Defendants therefore request that the Court maintain the stay in this case.

DATED: August 4, 2017

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 4, 2017, a copy of the foregoing Status Report was filed electronically via the Court's ECF System, which effects service upon counsel of record.

/s/ Alex Haas  
Alex Haas